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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Arturo A. Rodriguez

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EXAMINER

CHOWDHURY, SUMAIYA A

ART UNIT

PAPER NUMBER

2623

NOTIFICATION DATE

DELIVERY MODE

04/18/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOmail@sciatl.com

<b>Office Action Summary</b>	<b>Application No.</b> 09/896,470		<b>Applicant(s)</b> RODRIGUEZ, ARTURO A.	
	<b>Examiner</b> SUMAIYA A. CHOWDHURY		<b>Art Unit</b> 2623	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☒ Responsive to communication(s) filed on 28 January 2008.

2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) 1-7 and 12-14 is/are pending in the application.

    4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 1-7 and 12-14 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All    b) ☐ Some \*    c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
    Paper No(s)/Mail Date \_\_\_\_\_.

4) ☐ Interview Summary (PTO-413)  
    Paper No(s)/Mail Date \_\_\_\_\_.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-7, and 12-14 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5, and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (5771435) in view of Young (4706121) and Iivonen (7246367).

As for claim 1, Brown teaches a method for accessing a plurality of bi-directional services that are transmitted over a cable network, comprising:

Presenting a program guide to at least one subscriber, the program guide comprising at least one bi-directional service (VoD, NVoD) – col. 4, lines 24-27;

Receiving a request for a bi-directional service displayed in the program guide – col. 4, lines 26-27;

Determining a current bandwidth consumption and availability of the requested bi-directional service – col. 3, lines 42-50, col. 3, line 60-col. 4, line 15, col. 7, lines 12-21;

Dependent upon the current bandwidth consumption and availability, rendering the bi-directional service— col. 3, lines 42-50, col. 3, line 60-col. 4, line 15, col. 7, lines 12-21;

However, Brown fails to teach the following:

Wherein the program guide includes availability information of the service;

Determining a schedule including bi-directional service rights for each subscriber;

Maintaining real-time communications between a supplier of the requested bi-directional service and a requesting subscriber;

Monitoring the real-time communications by a bi-directional services server;

Updating a bi-directional services database to reflect that the rendered bi-directional service is one of available or unavailable; and

Populating and presenting an updated program guide with the at least one bi-directional service and updated availability information, wherein the at least one bi-directional service is maintained and periodically updated in the program guide by the bi-directional services database.

In an analogous art, Young teaches:

Wherein the program guide includes availability information of the service (The program guide displays available listings. For viewers without special decryption service, the system will remove from display those satellite listings which are of no value to the viewer because they are encrypted. In other words, since those listings are unavailable, they are not displayed to the user. Col. 5, lines 19-36, col. 10, lines 11-60);

Updating a bi-directional services database to reflect that the rendered bi-directional service is one of available or unavailable (The database at the head-end sends the program guide to the user. If the user doesn't have special decryption service, the listings of the programs which are encrypted are removed from being displayed. If displayed, the program is available, otherwise it is not. Col. 5, lines 19-36, col. 10, lines 11-60); and

Populating an updated program guide with the at least one bi-directional service and updated availability information, wherein the at least one bi-directional service is maintained and periodically updated in the program guide by the bi-directional services database (The program guide is updated to reflect new listings and availability. Col. 5, lines 19-36, col. 10, lines 11-60).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Brown's invention to include the above mentioned limitation, as taught by Young, such that the user has the most current information on the availability of programs.

However, Brown and Young fail to teach:

Determining a schedule including bi-directional service rights for each subscriber;

Maintaining real-time communications between a supplier of the requested bi-directional service and a requesting subscriber;

Monitoring the real-time communications by a bi-directional services server;

In an analogous art, Iivonen teaches:

Determining a schedule including bi-directional service rights for each subscriber (Playback priority rights vary from user to user. col. 4, lines 40-44, col. 5, lines 39-54);

Maintaining real-time communications between a supplier of the requested bi-directional service and a requesting subscriber (col. 4, lines 35-40, col. 5, lines 15-38, col. 7, lines 45-54, col. 7, lines 45-55);

Monitoring the real-time communications by a bi-directional services server (col. 4, lines 35-40);

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Brown and Young's invention to include the above mentioned limitation, as taught by livonen, for the advantage of providing an interactive system thereby enabling the user control of streams.

Considering claim 2, Brown, Young, and livonen disclose the claim limitations. In particular, Young discloses the step of receiving a request for further information regarding the requested bi-directional service and transmitting the information to the requestor wherein the information comprises duration (col. 10, lines 25-40).

Considering claim 3, Brown, Young, and livonen disclose the claim limitations. In particular, livonen teaches querying the bi-directional services database to ensure the requested bi-directional service is available, and if available, querying the schedule including bi-directional service rights for each subscriber, wherein the rights for a bi-

directional service include start time (col. 4, lines 40-44, col. 5, lines 39-54, col. 6, lines 42-56).

Considering claim 4, Brown, Young, and livonen disclose the claim limitations. In particular, livonen teaches receiving a request from a subscriber for a bi-directional service comprises a bi-directional communication session between the subscriber and at least one other subscriber with the requested bi-directional service (col. 7, lines 45-54).

Considering claim 5, Brown, Young, and livonen disclose the claim limitations. In particular, Brown teaches:

Receiving a second request (subsequent request) for an available bi-directional service displayed in the program guide- col. 4, lines 26-27;

Determining the current bandwidth consumption – col. 3, lines 42-50, col. 3, line 60-col. 4, line 15, col. 7, lines 12-21;

Dependent upon the current bandwidth consumption, transmitting the second requested bi-directional service – col. 3, lines 42-50, col. 3, line 60-col. 4, line 15, col. 7, lines 12-21;

Young teaches:

Updating the availability information in the bi-directional services database; and presenting an updated program guide including the second requested bi-directional service availability information (The database at the head-end sends the program guide

to the user. If the user doesn't have special decryption service, the listings of the programs which are encrypted are removed from being displayed. If displayed, the program is available, otherwise it is not. Col. 5, lines 19-36, col. 10, lines 11-60).

Considering claim 12, Brown, Young, and Iivonen teach wherein the program guide displays bi-directional services along with the availability information as discussed above in claim 1. However, Brown and Young fail to teach the step of continuously updating the program guide to display availability information for each of the plurality of bi-directional services.

The Examiner takes Official Notice that it is notoriously well known in the art to continuously update the program guide to through the use of a carousel to display availability information. Whatever service(s)/programs are displayed in the program guide, are service(s)/programs that are available.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Brown and Young's invention to include the above mentioned limitations, for the advantage of always providing the user with an updated program guide.

Claim 13 contains the limitations of claim 1 and 3 and is analyzed as previously discussed with respect to those claims.



As for claim 14, Brown, Young, and livonen teach wherein the updated bi-directional services database is updated by information received from the at least one remote supplier (livonen teaches when a service is rendered, the billing database is updated to reflect that the service has been rendered – col. 4, lines 44-51).

4. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown, Young, and livonen as applied to claim 5 above, and further in view of Haddad (5835843) and Fulp (6055571).

Considering claim 6, Brown, Young, and livonen fail to teach:

If a displayed bi-directional service is not available due to the unavailability of the bi-directional service, receiving a request for future consumption of the requested bi-directional service; and

If a displayed bi-directional service is not available due to the current bandwidth consumption, receiving a request for one of future consumption of the requested bi-directional service at a first price or a request for immediate consumption of the requested bi-directional service at a second price.

In an analogous art, Haddad teaches if a displayed bi-directional service is not available due to the unavailability of the bi-directional service, receiving a schedule request for future consumption of the requested bi-directional service. In particular, Haddad teaches if a program isn't available right away, the user sets a time allowance

interval. A time allowance interval includes a minimum delivery time which determines the earliest time that a program is available for viewing. – col. 9, col. 2, lines 48-53, col. 7, line 59-col. 8, line 3.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Brown and Young's invention to include the above mentioned limitation, as taught by Haddad, in order satisfy the user's request of watching a program within a time interval.

However, Brown, Young, and Iivonen, and Haddad fail to teach:

If a displayed bi-directional service is not available due to the current bandwidth consumption, receiving a request for one of future consumption of the requested bi-directional service at a first price or a request for immediate consumption of the requested bi-directional service at a second price.

In an analogous art, Fulp teaches:

If a displayed bi-directional service is not available due to the current bandwidth consumption, receiving a request for one of future consumption of the requested bi-directional service at a first price or a request for immediate consumption of the requested bi-directional service at a second price (col. 17, lines 21-29).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Brown, Young, and Iivonen, and Haddad's invention to include the above mentioned limitation, as taught by Fulp, to encourage high utilization of resources.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown, Young, Iivonen, Haddad, and Fulp as applied to claim 6 above, and further in view of Bates and Lawler (5699107).

Considering claim 7, Brown, Young, Iivonen, Haddad, and Fulp teach:

Displaying a notification of the unavailable bi-directional service as discussed above in claim 6. However, Brown, Young, Iivonen, Haddad, and Fulp fail to teach displaying a notice on a currently displayed program.

In an analogous art, Bates teaches displaying a notice (103 – Fig. 5) on a currently displayed program, the notice displaying later showings of the selected program – (See Fig. 4 & Fig. 5, col. 7, lines 10-20).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Brown, Young, Iivonen, Haddad, and Fulp's invention to include the above mentioned limitation, as taught by Bates, for the advantage of allowing the user to view the desired program at a later convenient time.

However, Brown, Young, Iivonen, Haddad, Fulp, and Bates fail to teach:

The step of providing notification when the bi-directional service is available, wherein the notification of the previously unavailable bi-directional service comprises displaying a notice on a currently displayed program.

In an analogous art, Lawler teaches:

The step of providing notification when the bi-directional service is available (Lawler teaches a two-way system. Hence, it is inclusive of bi-directional services. Once a reminder is set, the system monitors the reminder and shortly before the program, provides notification that the program is about to begin. – col. 12, lines 35-40).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Brown, Young, Iivonen Haddad, Fulp, and Bates' invention to include the above mentioned limitation, as taught by Lawler, for the advantage of providing an effective way of informing the user of a desired service.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sumaiya A. Chowdhury whose telephone number is (571) 272-8567. The examiner can normally be reached on Mon-Fri, 9-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/John W. Miller/  
Supervisory Patent Examiner, Art Unit 2623

SAC